

REPORT - PLANNING COMMISSION MEETING
October 27, 2005

Project Name and Number: FAME Charter School (PLN2006-00063)

Applicant: Bay Area School for Independent Study

Proposal: To consider a planned district minor amendment to P-80-13 for a charter school to be located in an existing office building.

Recommended Action: Approve, based on findings and subject to conditions.

Location: 3300 Kearney Street in the Central Planning Area

Assessor Parcel Number(s): 525-1647-009-00

Area: 32,032 square foot one-story building on a 3.22-acre (140,260 square feet) site

Owner: Shapell Industries of Northern California, Inc.

Agent of Applicant: Maram Alaiwat, Executive Director of the FAME Charter School

Consultant(s): Eugene H. Sim & Simon Reyes, SIM Architects
Susan Gregory, Colliers International

Environmental Review: This project is categorically exempt from environmental review under section 15301 of the CEQA Guidelines--operation, leasing, or minor alteration of existing facilities.

Existing General Plan: Central Business District

Existing Zoning: P-80-13, Planned District

Existing Land Use: Currently vacant; former computer company and call center

Public Hearing Notice: A total of 165 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Dayton Common, Ellery Common, Gilman Common, Hart Common, Kearney Street, Leslie Common, Liberty Common, Liberty Street, Paseo Padre Parkway, Stevenson Boulevard, Sundale Drive, and Taylor Common. The notices to owners and occupants were mailed on October 14, 2005. A Public Hearing Notice was delivered to *The Argus* on October 10, 2005 to be published by October 13, 2005.

Executive Summary: The Bay Area School for Independent Study proposes to establish the FAME Charter School (FAME) in an approximately 32,000 square foot building at 3300 Kearney Street, which is located in Planned District P-80-13 in the Central Business District. As a county charter school, FAME plans to initially draw kindergarten through eighth-grade students to this location from within the Tri-City area, and expand gradually toward twelfth grade by adding sixty students in a new grade for each of the next four years. At full enrollment, FAME expects to have 560 students. FAME is presently operating under an "interim operational plan" with a maximum of 159 students and a limit on classroom sizes in each room. As stated in the agreement between the City and FAME, the use may not exceed these limits until (1) a successful application for a planned district minor amendment allows the density of the use to increase, and the school obtains a certificate of occupancy from the City for Group E occupancies in accordance with the City Building Code, or (2) the school board takes action to exempt FAME from City Codes in a way that complies with mutual understandings between the City and FAME School.

Background and Previous Actions: On July 22, 2005, City staff became aware of FAME's intention to occupy a former call center at 3300 Kearney Street. The building in question was constructed during phase one of development of

Planned District P-80-13, which was first approved in September of 1980. The original Planned District's conditions of approval referenced the Office Commercial (C-O) district's uses; the C-O district allows 159 students, while a higher number of students requires this planned district amendment. Staff had intensive discussions between July 25, 2005 and September 1, 2005 regarding the applicability of California Law; Local Zoning, Building, and Fire Codes; and various operational limitations necessary to ensure public safety. These discussions--involving the City Attorney's Office, Fire, Traffic Engineering, Planning, and the Police Department--resulted in an agreement that the school would be allowed to open on August 31, 2005 so long as FAME had resolved all of the fundamental life safety concerns identified by City staff.

Furthermore, FAME and the City of Fremont promised to proceed with the entitlement process in good faith and follow through to apply to the Development Organization for a building permit by November 1, 2005. On August 26, 2005, FAME submitted a formal application, and on September 8, 2005, staff held a City Technical Coordinating Committee (CTCC) meeting to further evaluate the application. At a September 20, 2005 meeting, staff responded to FAME with incomplete items, and FAME resubmitted revised plans to the City on October 7, 2005. The item was then agendaized for October 27, 2005--the first available meeting due to public noticing requirements.

Under the terms of the September 1, 2005 letter (page 3, item 4), FAME must "endeavor to complete all Building Code and Zoning Code compliance actions on or before March 1, 2006" and "[not] enroll students beyond the close of the school year for 2005-2006...until after FAME has obtained a certificate of occupancy from the City for Group E occupancies in accordance with the City Building Code." Thus far, FAME has been working with City staff toward that end in good faith.

Project Description: The Bay Area School for Independent Study (BASIS) proposes to establish the FAME Charter School (FAME) in an approximately 32,000 square foot building at 3300 Kearney Street in Planned District P-80-13 in sub-area 5 of the Central Business District.

FAME is an acronym that stands for "Families of Alameda for Multicultural/Multilingual Education." As a county charter school, FAME operates facilities in Dublin, San Leandro, and now in Fremont. The school is operated as a blend of classroom instruction and independent study, with independent study playing a minor role at this location. Initially, FAME plans to draw kindergarten through eighth-grade students to this location from within the Tri-City area, expanding upward one grade at a time toward twelfth grade by adding sixty students in a new grade for each of the next four years. At full enrollment, FAME expects to have 560 students. FAME is presently operating under an "interim operational plan" with a maximum of 159 students and a limit on classroom sizes in each room.

According to the agreement between the City and FAME, the use may not exceed maximum enrollment and class size limits until (1) a successful application for a planned district minor amendment allows the density of the use to increase, and the school obtains a certificate of occupancy from the City for Group E occupancies in accordance with the City Building Code, or (2) the school board takes action to exempt FAME from City Codes in a way that complies with mutual understandings between the City and FAME School.

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is Central Business District. The proposed project is consistent with the existing General Plan land use designation for the project site because educational services would be one of "all service uses" allowed per page 3-37 of the General Plan's Land Use Chapter.

Although the 1991 General Plan contains discussion about schools under the broad category of "Public Facilities," the general plan's text predates the charter school movement. County-approved charter schools such as FAME, which are considered public agencies as part of a statewide charter school system, operate differently than a local school district facility. On the one hand, FAME receives public funding; however, its operation is not administratively tied to the Fremont Unified School District, and pupils are not based in the small geographical areas that constrain neighborhood school planning. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

Public Facilities Goal 2: Support the Fremont Unified School District and other educational institutions to provide quality education to the children and adults of Fremont.

Charter schools can operate in California either in partnership with a local school district board or through the approval of a county board of education. FAME's acronym stands for "Families of Alameda for Multilingual Education"--an educational service of potential benefit to our community. As an "other educational institution," FAME would provide educational service under their Charter in accordance with a Memorandum of Understanding with the Alameda County Board of Education.

This site is part of sub-area five--the "South of Walnut" area of the Central Business District Concept Plan. The long term plans for sub-area five includes "automobile-oriented, non-intensive offices and other uses" (CBD Concept Plan, p. 34). Educational services would be allowed both in the C-B-D zoning district and within the C-O district referenced by this planned district. See below for a more specific analysis of zoning.

Zoning Regulations:

FAME and the City of Fremont have agreed that the school is subject to local zoning rules, and FAME has not expressed any imminent desire nor made preparations to exempt themselves from the local zoning ordinance under provisions of the California government code.

While this property is located within the Central Business District, the site is part of a planned district. Condition three of P-80-13 (Exhibit "D") allows uses "limited to those allowed in the Commercial Office (C-O) district" in addition to certain specified uses.

"Educational services, where the occupancy would not exceed one person for each two hundred square feet [of] floor area" are currently permitted uses in the C-O district according to Section 8-2901(a)(22) of the Fremont Municipal Code (FMC). The Alameda County Assessor shows the building's square footage as 32,032, 31,974 square feet of which is shown as the lessor's available space. Therefore, an educational service with less than 160 ($31,974/200=159.87$) persons at any one time would be allowed in this facility for it to be approved as a permitted use.

Per FMC Section 8-2903(a)(3), "[e]ducational services, where the occupancy would exceed one person for each two hundred square feet floor area" would be allowed in the C-O district upon approval of a conditional use permit reviewed by the Planning Commission. Longstanding City policy has been to process conditional use permits within a planned district as planned district minor amendments subject to Planning Commission review. Therefore, if the capacity proposed is greater than or equal to 160 persons, an application must be submitted for a minor amendment to P-80-13.

The Standard Industrial Classification (SIC) Manual category for "educational services" (major group 82) is a broad definition referenced by the FMC to include everything from elementary and secondary schools to colleges, military academies, and other types of schools not elsewhere classified. Charter schools are a relatively new (1992) type of educational service.

Since the establishment of a charter school at this location constitutes an expansion of use described in FMC Section 8-2907(b), site improvements undertaken after this entitlement phase will be subject to site plan and architectural review by the Development Organization.

Parking & Circulation: There are 160 parking spaces provided onsite. Per FMC Section 8-22003(b)(2) g. 1 & 2, elementary and junior high schools require only one space per staff member. High schools, however, require one space per staff member, plus an additional one space per seven high school students. FAME school's site plan shows a minimum of 155 spaces, of which only 65 will be required once full enrollment of 560 students is attained. Therefore, the site has ample parking.

One of the most important factors involved in a school's traffic circulation is the pick-up and drop-off plan. During the school day, parking is very light because parents drop off the children and do not occupy parking spaces except to

accomplish short-term administrative activities. The campus is also conditioned to be closed during the day, meaning students will not be allowed to go off of the site during any breaks in instructional time. Therefore, the only times of concern are mornings and afternoons within about 15 minutes of classes beginning and ending. Previously, staff required a temporary plan to be prepared in consultation with the Police Department and Traffic Engineering Division as a condition of occupancy. The goals of any pick-up and drop-off plan are to eliminate vehicle queuing on public streets and to provide for the safety of children entering and exiting the building. Because enrollment levels and local conditions vary, a condition is proposed to require collaboration with City staff to update the pick-up and drop-off plan at least yearly, and as otherwise may be necessary (such as with change of school hours) to ensure the orderly movement of traffic on and off-site.

In the short term, FAME plans to continue their existing morning and afternoon plan, which is characterized by an onsite queuing area about 700 feet long with staff persons directing traffic so as to prevent parent cars from stopping on Liberty Street, Kearney Street, or in primary driveways--so as not to disturb other traffic within or on the perimeter of the planned district. Under the current plan, however, there is a relatively small zone where teachers load children into cars. The long-term plan is to retain the safety of passenger-side loading by adding an accessible sidewalk to the southeastern side of the building in order to accommodate the possibility of loading multiple vehicles. This sidewalk serves a dual purpose--provision of both an accessible path of travel to the street and an additional passenger-loading zone approximately 200 feet long. Internal site looping for vehicle queuing could continue to be used in the future as necessary.

Future Outside Play Area: The City does not have standards for outdoor play areas. State law contains advisory sizes and configurations for soft and hardscape recreational space for children. Should FAME propose these amenities in the future, that application will be subject to review and approval of a planned district amendment.

ENVIRONMENTAL DETERMINATION: The proposed project has been reviewed under the California Environmental Quality Act (CEQA) Guidelines and has been found to be categorically exempt under Section 15301 (operations, leasing, or minor alteration of existing facilities).

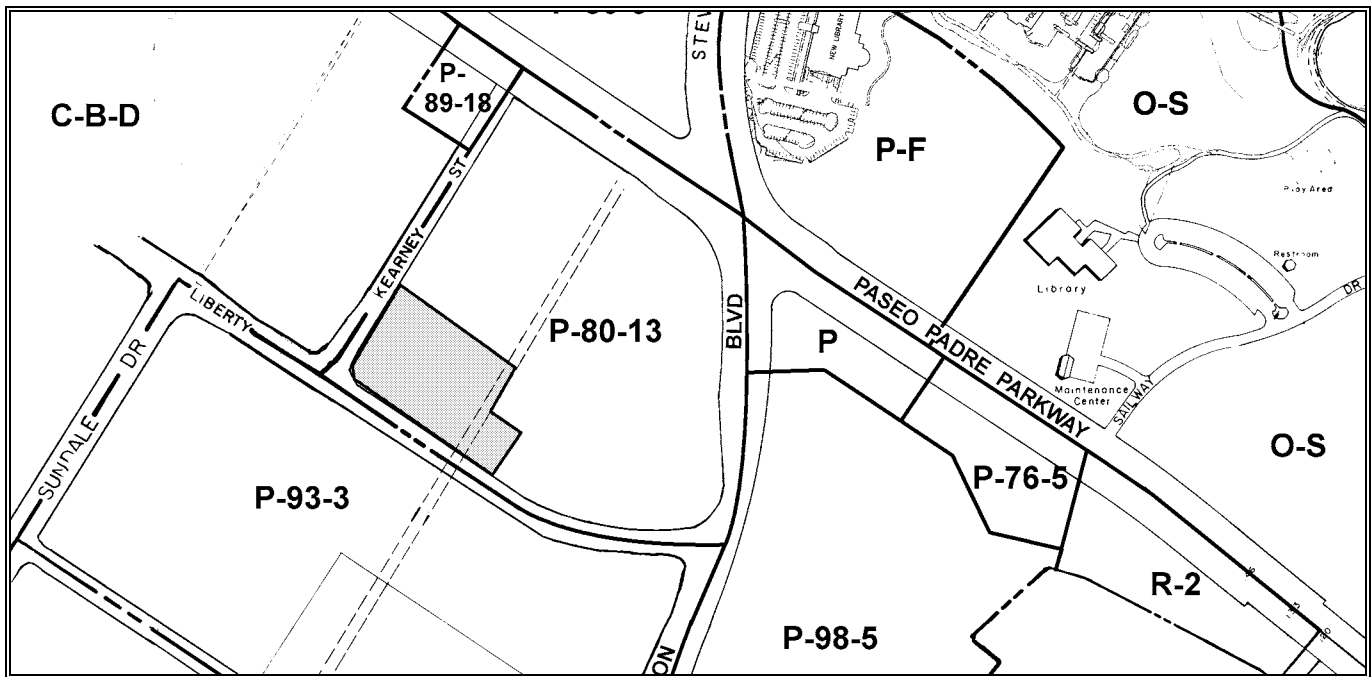
ENCLOSURES: Exhibit "A" (Site Plan, Floor Plan, and Elevations)
September 1, 2005 Letter between FAME School and the City of Fremont
Applicant Letter stating operational plan

EXHIBITS: Exhibit "A" Site Plan, Floor Plan, and Elevations
Exhibit "B" Findings and Conditions of Approval

Recommended Actions:

1. Hold public hearing.
2. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Public Facilities Chapter as enumerated within the staff report. The project conforms to the goals and policies as enumerated in the staff report.
3. Find PLN2006-00063, as per Exhibit "A" (site plan, floor plan, and elevations), fulfills the applicable requirements set forth in the Fremont Municipal Code.
4. Approve PLN2006-00063, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan



Exhibit "B"
Findings and Conditions of Approval
For PLN2006-00063

Findings required for Planned District Amendments:

- A. The proposed modifications proposed by this Planned district amendment can be substantially completed within four years

The site is already in a developed state and the scope of work proposed is limited to the improvement of the existing building and minor site improvements.

- B. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts.

As a separate building within Planned District P-80-13, FAME Charter School's operation will be operationally independent of, yet compatible with, surrounding uses.

- C. The existing streets and thoroughfares are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside of the planned district

Conditions are proposed to allow for effective on-site parking and queuing of the vehicles associated with this use.

- D. Any exception from the standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the planning commission and the city council.

The site plan submitted does not request exceptions from the standard ordinance requirements for this site previously built in conjunction with the approval of Planned District P-80-13.

- E. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.

Existing residential to the southwest is compatible with an educational facility, and the school is flanked by a hospital (Palo Alto Medical Clinic) on the east and a Government Building (City of Fremont Development Services Center) to the north. Other office uses--primarily financial and legal services--make up the balance of Planned District P-80-13. As a public educational facility, FAME charter school is consistent with the surrounding development.

Conditions:

1. The project shall conform to Exhibit "A" (Site Plan, Floor Plan, and Elevations) and all conditions of approval set forth herein. Before compliance with all conditions of this approval and issuance of a Certificate of Occupancy by the City of Fremont, the maximum number of students enrolled at or otherwise served by this facility shall not exceed 159 at any time. Thereafter, the maximum number of students enrolled at or otherwise served by this facility shall not exceed 560 at any time.
2. The applicant shall submit plans to the Development Organization immediately and shall comply with all City of Fremont zoning, building, and fire codes, development standards, regulations, and policies; state law; and federal law during upgrade of the facility for use as a public charter school. Minimum compliance shall include, but not be limited to: maintenance of an up-to date emergency action plan periodically reviewed and available for inspection by the City Fire and Police Departments; and full compliance with the 2001 California Building & Fire Codes in addition to local Ordinances #2484 and 2485 as they relate to requirements for upgrades to an E-1 occupancy, including seismic resistivity, fire safety, and provision of an adequate safe dispersal area (2001 CBC Section 1007.3.11).

3. The school shall operate as a "closed campus" for the purpose of student recesses, lunch periods, or other breaks for the duration of the entire instructional day. FAME school shall maintain and enforce rules restricting off-campus lunches and breaks for students. Any significant changes to the school's operational plan will be subject to further review and approval.
4. The applicant shall consult with the City of Fremont's Police and Traffic Engineering Division as needed, but at least once before and one month into each school year, to create a drop-off and pick-up plan that provides for:
 - i. The safety of students arriving at and leaving school grounds, and
 - ii. The unimpeded flow of all traffic throughout the planned district and on adjoining public streets.

The City of Fremont Police Department or Traffic Engineering Division shall be empowered to specify additional or alternate schedules for updating the drop-off or pick-up plan.

5. Future site improvements, including but not limited to provision of outdoor recreation areas, shall be subject to a subsequent planned district amendment process. Future planned district amendment applications must further the considerations of safety for the schoolchildren; safe, orderly movement of vehicular and pedestrian traffic within the planned district and on adjoining streets; and appropriateness of the site modifications in relation to the surrounding Planned District P-80-13 and the Central Business District.